

D-1-FM-06-004834

SEP 22 2006 *KW*NO. 04-1277at 3:00 P.M.
Amalia Rodriguez-Mendoza, ClerkIN THE MATTER OF
THE MARRIAGE OFJOSEPH ANTHONY RYAN, JR.
AND
LORI NORENE RYANAND IN THE INTEREST OF
TYLEE ASHLYN RYAN, A CHILD§
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IN THE DISTRICT COURT

22ND JUDICIAL DISTRICT

HAYS COUNTY, TEXAS

**MOTION FOR ENFORCEMENT OF POSSESSION OR ACCESS
AND ORDER TO APPEAR
AND
PETITION TO MODIFY DECREE OF DIVORCE
AND
MOTION FOR TEMPORARY AND PERMANENT INJUNCTIONS**

MOTION FOR ENFORCEMENT

This Motion for Enforcement of Possession or Access is brought by JOSEPH ANTHONY RYAN, JR., Petitioner, and the father of the child the subject of this motion. In support, Petitioner shows:

1. Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. Petitioner is a joint managing conservator.

3. The child the subject of this suit is:

Name: **Tylee Ashlyn Ryan**

Sex: Female

Birth date: 09/24/2002

4. A motion to transfer under chapter 155 of the Texas Family Code has been filed with

FILED

SEP 22 2006 9:49 AM

Amalia Rodriguez-Mendoza
DISTRICT CLERK
HAYS COUNTY, TEXAS

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the Court simultaneously with this motion.

5. The parties entitled to notice are as follows:

a. Respondent, LORI NORENE RYAN, who is a joint managing conservator.

Process should be served at 1810 Intervail, Austin, Texas.

b. Charles Vallow, who is the husband of Respondent and a party affected by the order sought to be enforced.

Process should be served at 1810 Intervail, Austin, Texas.

6. On May 18, 2005, this Court signed an order that appears in the minutes of this Court at volume _____, page _____, and states in relevant part as follows:

Except as otherwise explicitly provided in this Modified Possession Order, when JOSEPH ANTHONY RYAN, JR. resides 100 miles or less from the primary residence of the child, JOSEPH ANTHONY RYAN, JR., shall have the right to possession of the child as follows:

1. **Weekends.** – On weekends, beginning at 6:00 p.m. on the first, third and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday.

2. **Thursday.** – On Thursday of each week from April, 2005 until the child is enrolled in Kindergarten, only on those weeks when JOSEPH ANTHONY RYAN, JR. does not have the following weekend possession of the child, beginning at 10:00 a.m. and ending at 6:00 p.m.

3. **FOR SUMMER 2006:**

With Written Notice by April 1, 2006. – If JOSEPH ANTHONY RYAN, JR., gives LORI NORENE RYAN written notice by April 1, 2006 specifying an extended period or periods of summer possession for that year, JOSEPH ANTHONY RYAN, JR., shall have possession of the child for fourteen (14) days beginning no earlier than June 1, 2006 and ending no later than August 15, 2006. Each period of possession must be no less than seven consecutive days each as specified in the written notice. These periods

of possession shall begin and end at 6:00 p.m.

Petitioner was the petitioner and Respondent was the respondent in the prior proceedings.

7. Respondent has failed to comply with the order described above as follows:

Violation 1. Respondent has refused to give Petitioner possession of the child for the scheduled summer possession on August 9 through August 15th, 2006. Petitioner sent written notice of the times for summer possession as required by the Divorce Decree.

Violation 2. Respondent refused to give Petitioner possession of the child for the scheduled weekend visitation on August 4 through August 6, 2006.

Violation 3. Respondent refused to give Petitioner possession of the child for the scheduled Thursday visitation on August 27, 2006.

8. Petitioner requests that Respondent be held in contempt, jailed, and fined for each violation alleged above.

9. Petitioner believes, based on the conduct of Respondent, that Respondent will continue to fail to comply with the order. Petitioner requests that Respondent be held in contempt, jailed, and fined for each failure to comply with the order of the Court from the date of this filing to the date of the hearing on this motion.

10. Petitioner requests that Respondent be confined in the county jail for eighteen months or until Respondent complies with the order of the Court.

11. Petitioner requests that Respondent be placed on community supervision for ten years

on release from jail or suspension of commitment.

12. On two or more occasions, Respondent has failed to comply with the order of the Court by failing to surrender the child to JOSEPH ANTHONY RYAN, JR. as ordered. Petitioner requests that the Court order a bond or security for compliance with the Court's order granting possession of or access to the child.

13. Petitioner requests that the Court order additional periods of possession for Petitioner to compensate for those periods denied by Respondent.

14. Petitioner requests that, if the Court finds that any part of the order sought to be enforced is not specific enough to be enforced by contempt, the Court enter a clarifying order more clearly specifying the duties imposed on Respondent and giving Respondent a reasonable time within which to comply.

15. It was necessary to secure the services of Bruce Thrasher, a licensed attorney, to enforce and protect the rights of JOSEPH ANTHONY RYAN, JR. and the child the subject of this suit. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs, and a judgment should be rendered in favor of the attorney and against Respondent and be ordered paid directly to the undersigned attorney, who may enforce the judgment in the attorney's own name. Petitioner requests postjudgment interest as allowed by law. Petitioner further requests the Court to find that the enforcement of the order with which the Respondent failed to comply is necessary to ensure the child's physical or emotional health or welfare.

**PETITION TO MODIFY
AND
MOTION FOR TEMPORARY AND PERMANENT INJUNCTIONS**

16. *Parties and Order to Be Modified*

This suit to modify a prior order is brought by JOSEPH ANTHONY RYAN, JR., Petitioner. Respondent is LORI NORENE RYAN. Petitioner is the father of the child and has standing to bring this suit. The requested modification will be in the best interest of the child.

The order to be modified is entitled Final Decree of Divorce and was rendered on May 18, 2005.

17. *Jurisdiction*

This Court has continuing, exclusive jurisdiction of this suit.

18. *Child*

The following child is the subject of this suit:

Name: Tylee Ashlyn Ryan

Sex: Female

Birth date: 09/24/2002

County of residence: Travis

19. *Parties Affected*

The following parties may be affected by this suit:

Name: LORI NORENE RYAN

Relationship: mother

Process should be served at 1810 Intervail, Austin, Texas.

20. *Health Insurance Information*

Private health insurance is in effect for the child through Golden Rule United Healthcare

insurance company, Group no. 705214, I.D. no. 058 061 340. Petitioner is responsible for payment of the health insurance premium. The cost of the premium is \$385.43 per month. Petitioner is self employed. The coverage is not provided through a parent's employment.

21. *Child's Property*

There has been no change of consequence in the status of the child's property since the prior order was rendered.

22. *Support*

The order to be modified is not based on a mediated or collaborative law settlement agreement. The circumstances of the child or a person affected by the order have materially and substantially changed since the date of the rendition of the order to be modified, and the support payments previously ordered should be decreased. The support payments previously ordered are not in substantial compliance with the guidelines in chapter 154 of the Texas Family Code, and the requested decrease would be in the best interest of the child. Petitioner requests that any decrease be made retroactive to the earlier of the time of service of citation on Respondent or the appearance of Respondent in this modification action.

The requested modification is in the best interest of the child.

23. *Request for Temporary Orders*

Petitioner requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the child, including but not limited to the following:

Ordering Respondent to immediately deliver possession of the child to Petitioner .

Ordering the preparation of a social study into the circumstances and condition of the child and of the home of any person requesting managing conservatorship or possession of the child.

Ordering the psychological evaluation of Lori Norene Ryan and the child.

Ordering the parties to attend a parent education and family stabilization course.

Appointing a guardian ad litem to represent the best interests of the child.

24. *Request for Temporary Injunctions*

Petitioner requests the Court to dispense with the necessity of a bond, and Petitioner requests that Respondent be temporarily enjoined, pending the further order of this Court:

From hiding or secreting the child from Petitioner.

From withholding possession of or access to the child from Petitioner.

From making disparaging remarks regarding Petitioner in the presence or within the hearing of the child.

That Respondent be ordered to immediately deliver possession of the child to Petitioner.

25. *Request for Permanent Injunction*

Petitioner requests the Court, after trial on the merits, to grant the following permanent injunctions:

a. Hiding or secreting the child from Petitioner.

b. Withholding possession of or access to the child from Petitioner.

b. Making disparaging remarks regarding Petitioner in the presence or within the hearing of the child.

26. *Prayer*

Petitioner prays that Respondent be held in contempt and punished as requested, that the Court order community supervision, that the Court order a bond or security, that the Court clarify any

part of its prior order found not to be specific enough to be enforced by contempt, for attorney's fees, expenses, costs, and interest, and for all further relief authorized by law.

Petitioner prays that citation and notice issue as required by law and that the Court enter its orders in accordance with the allegations contained in this petition.

Petitioner prays that the Court immediately grant a temporary injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above.

Petitioner prays that, on final hearing, the Court enter a permanent injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above.

Petitioner prays for general relief.

Respectfully submitted,

Law Offices of Bruce Thrasher
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Austin, Texas 78734
Ph. 512-263-5141
Fax 512-263-5402

By: 

Bruce Thrasher
State Bar No. 19998400
Attorney for Petitioner

Order to Appear

Respondent, LORI NORENE RYAN, is ORDERED to appear and respond to this Motion for Enforcement in the District Court of Hays County, Texas, 22nd Judicial District on Aug 16th at 9:30 A. m., at the Hays County Justice Center, San Marcos, Texas.

The purpose of this hearing is to determine whether the relief requested in this motion should be granted.

It is further ordered that any authorized person eighteen years of age or older who is not a party to or interested in the outcome of this suit may serve any citation, notice, or process in this case.

SIGNED on 8/8/06.

Nancy Parrish
Judge or Clerk